

P-421/EI-89-860ESTABLISHING PROCEDURES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of Northwestern Bell Telephone
Company's, d/b/a U S WEST
Communications, Proposed Incentive
Regulation Plan

ISSUE DATE: October 31, 1989

DOCKET NO. P-421/EI-89-860

NOTICE OF FILING AND ORDER
ESTABLISHING PROCEDURES

PROCEDURAL HISTORY

On July 7, 1989, Northwestern Bell Telephone Company, d/b/a U S WEST Communications, (NWB or the Company) filed a notice with the Minnesota Public Utilities Commission that it had elected to be subject to Minn. Stat. §§ 237.59, 237.60, subdivisions 1, 2, and 5 and 237.62. These laws altered the rate change process for electing companies whose services have been determined to be subject to emerging competition. The Company's July 7, 1989 election also made it eligible to file an incentive regulation plan (incentive plan) under recently passed legislation. Act of May 8, 1989, ch.74, sec. 18, 1989, Minn. Laws 174, 175 (incentive plan law).

In general, the new law allows a telephone company to earn more than its authorized rate of return as an incentive for improving its operating efficiency. Further, the law requires the telephone company while operating under an incentive plan to maintain or improve the quality of service it offers its customers. Customers benefit by sharing in the company's improved earnings while receiving the same or improved quality of service from the telephone company. The Commission will determine the point at which a company will share its improved earnings with its customers. The law also allows a telephone company it increase its rates under limited circumstances.

On October 30, 1989, the Company filed a proposed incentive plan.

FINDINGS AND CONCLUSIONS

Jurisdiction

A telephone company which has elected to be subject to the regulation under Minn. Stat. §§ 237.58, 237.59, 237.60., 237.62, is eligible to file an incentive plan under Act of May 8, 1989, ch. 74, sec. 18, 1989, Minn. Laws 174, 175. That law governs this proceeding. It establishes guidelines for a company's incentive plan and directs the Commission's process for determining whether the plan is appropriate.

In general, a company's proposed incentive plan must apply to its noncompetitive services as well as those which are subject to emerging competition. The law establishes standards for the filing itself. Further, the incentive plan law provides that before acting on a proposed plan, the Commission conduct any public meetings its considers necessary and require the petitioning telephone company to provide notice of the plan to its customers. The law also provides that the Commission conduct an expedited proceeding under Minn. Stat. § 237.61 (1988) to decide whether to approve the plan. Following that proceeding the Commission will issue findings of fact and conclusions addressing the appropriateness of the proposed plan and its terms and conditions. The Commission may approve, reject, or modify a proposed plan. However the Commission may not order that a modified plan take effect without the agreement of the petitioning telephone company. The Commission must reject a plan if it has substantial reason to believe that the existing rates are inappropriate. The Commission will issue its decision on a plan within six months after receiving the company's petition to approve the plan, unless the Commission and the petitioning company agree to a time extension for Commission action. If they do not so agree, the plan is deemed withdrawn.

To implement the incentive plan law and to protect the due process rights of all persons who may be interested in this filing, the Commission will proceed as follows.

Initial Notice and Service List

The Commission will serve this Order on all persons on the mailing list developed in In the Matter of a Petition by the U.S. Department of Defense, the General Services Administration, and All Other Federal Executive Agencies of the United States Challenging the Reasonableness of the Rates Charged by Northwestern Bell Telephone Company, Docket No. P-421/CI-86-354 and on other interested persons who request a copy.

Copies of the proposed incentive plan may be obtained by calling the Company at (612) 344-4526 or by writing to U S West, Room 3A75, 200 South 5th Street, Minneapolis, Minnesota 55402.

Attached to this Order is a Declaration of Interest form. Any person who would like to remain on the service list or would like to be deemed an interested person for purposes of Minn. Stat. § 237.61 (1988) in this proceeding must so indicate on the form and return it to the Commission within 10 days of this Order. Any person who wishes to change his status to become an interested person after that date must file a Petition to Intervene under Minn. Rules 7830.0600 with the Commission prior to the filing of comments on the merits of the proposed plan which are due approximately three months from the filing of the proposed incentive plan.

Service of Documents

The Commission will maintain the official service list for this proceeding. The Commission will distribute the list to all persons on it. After the service list is distributed, a copy of all documents submitted to the Commission, with the exception of information requests, must be served on all persons on the service list. The procedure for information requests is explained below.

For this proceeding, interested persons should serve documents (an original plus 13 copies) on the Commission by filing them with Mary Ellen Hennen, Executive Secretary, Minnesota Public Utilities Commission, 780 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101 with proof of service on all others designated as interested persons.

Any question concerning informal disposition of this matter or discovery of information should be addressed to Rosellen Condon, Special Assistant Attorney General, 780 American Center Building, St. Paul, Minnesota 55101, 612/296-2357.

Any other questions concerning this matter should be address to Mark Oberlander of the Commission staff at 780 American Center Building, St. Paul, Minnesota 55101, 612/296-1335.

Comments on Adequacy of the Filing as to Form

The Commission will accept written comments on the adequacy of NWB's filing as to form until November 13, 1989. Interested persons should address whether the Company's filing meets the following requirements of the incentive plan law:

1. A telephone company shall share increased earnings during the term of the incentive plan with its customers either by giving them credits against bills or by lowering rates. The plan must include a discussion of whether the division of increased earnings between the company and the customers must reflect the degree to which the company has assumed a risk of earning less than its revenue requirement and the degree to which the customers have assumed a risk of rate increases;
2. The incentive plan must be in effect for at least two years;
3. The incentive plan must provide for periodic reporting to the commission to document that the sharing requirements of the plan are being properly implemented. The company's rates and earnings under the plan are not subject to section 237.081, subd. 2, paragraph (b), except to the extent necessary to enforce the sharing provisions of the incentive plan; and
4. An incentive plan may not permit rate increases except under other provisions of this chapter. The plan may, however, permit the direct pass-through of cost decreases and increases approved or reallocated by a governmental entity, except for changes in intrastate depreciation schedules.

To demonstrate to the Commission and to interested persons that its proposed incentive plan meets the standards listed above, the Company has agreed to provide the following information:

- A. the legal name, address, and telephone number of the Company and its designated contact person;
- B. the name, address, and telephone number of the Company's attorney;
- C. the date of the filing, which is the date the Commission receives the Company's filing or the date designated by the Company, whichever is later;
- D. the proposed effective date of the incentive plan;
- E. the proposed duration of the proposed incentive plan;
- F. the signature and title of the Company officer or representative authorizing the proposed incentive plan;
- G. a brief narrative explaining why a general rate change proceeding is or is not appropriate;
- H. an explanation of whether and, if so, how the proposed incentive plan will benefit the Company's customers;

- I. an explanation of how the proposed incentive plan will allow the Company to maintain or improve the quality of its service;
 - J. the proposed tariffs and price lists;
 - K. the information listed below.
1. Rate base schedules. A schedule comparing the following jurisdictional amounts:
- A. the rate base approved by the Commission in the Company's most recent general rate change proceeding; and
 - B. the corresponding rate base for the most recent fiscal year. The corresponding rate base must incorporate the applicable rate base adjustments and components allowed or required by the Commission in the Company's most recent general rate proceeding.

An accompanying written explanation must cite each rate base issue determined by the Commission in the most recent general rate change proceeding, where it appears in the Commission's Order, and the adjustment the Company has made for the issues cited from the Commission Order. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The Company will explain significant changes in dollar amounts for the comparison schedule.

2. Operating income statement schedule. A schedule comparing the following jurisdictional amounts:
- A. the operating income statement approved by the Commission in the Company's most recent general rate change proceeding; and
 - B. the corresponding operating income statement for the most recent fiscal year. The corresponding operating income statement must incorporate the applicable operating income statement adjustments and components allowed or required by the Commission in the Company's most recent general rate change proceeding.

An accompanying written explanation which cites each operating income statement issue determined by the Commission in the most recent general rate change proceeding, where it appears in the Commission's Order, and the adjustment the Company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The Company will explain significant changes in dollar amounts for the comparison schedule.

3. Rate of return schedule. A schedule comparing the following amounts:
- A. the rate of return approved by the Commission in the company's most recent general rate change proceeding, including the capital structure, the cost of short-term debt, the cost of

long-term debt, the cost of preferred stock, and the authorized return on common equity;

- B. the realized rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the realized return on common equity; and
- C. the required rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the required return on common equity. The Company will explain how it developed the required rate of return.

The Company will explain significant changes in dollar amounts and costs included in the comparison schedule.

4. Determination of revenue deficiency or surplus. A schedule comparing the revenue deficiency or surplus amounts calculated by using the following:

- A. the rate base, operating income statement, and rate of return approved by the Commission in the Company's most recent general rate change proceeding;
- B. the corresponding rate base, operating income statement, and realized rate of return for the most recent fiscal year; and
- C. the corresponding rate base, operating income statement, and required rate of return for the most recent fiscal year.

5. Financial market schedule. A schedule showing twelve months of prime interest rates, or twelve months of treasury bill rates, or other financial market indicators, during the following periods:

- A. the Company's most recent general rate change proceeding; and
- B. the most recent fiscal year.

6. Operating efficiency. The proposed incentive plan will include the following:

- A. an explanation of how the proposed incentive plan will provide an incentive to the Company to improve its operating efficiency;
- B. a projection of which operations the Company expects to become more efficient as a result of the proposed incentive plan; and
- C. an explanation of why the operations identified in item B can not be improved without the proposed incentive plan.

7. Shared earnings. The plan will include the terms and conditions of the Company's proposed incentive plan to share its increased earnings with its customers. The plan will also include:

- A. an explanation of how increased earnings will be shared;
- B. a statement whether increased earnings will be shared by giving customers credits against bills or by lowering rates;
- C. an assessment of the risks borne by the Company and those borne by its customers;
- D. an explanation of how increased earnings will be measured by the Company and periodically reported to the Commission;
- E. a description of proposed pass-through of cost increases and decreases.

Comments on whether the filing is adequate as to form should address whether the Company has filed the above information. Following receipt of comments from interested persons and its staff, the Commission will schedule a meeting on the adequacy of the Company's filing if it deems it necessary.

Interested persons will have three months to file their analysis and evaluation of the information filed.

Public Meetings

The Commission will conduct public meetings regarding the Company's proposed incentive regulation plan as indicated below:

Minneapolis

Monday, December 4, 1989
1:30 pm
Hennepin Co. Government Center
Auditorium
300 South 6th Street
Minneapolis, MN 55487

St. Paul

Monday, December 4, 1989
7:00 pm
State Office Building
Room 5
100 Constitution Avenue
St. Paul, MN 55155

Duluth

Tuesday, December 5, 1989
1:30 pm
Duluth City Hall
Council Chambers - 3rd Floor
441 W. 1st Street
Duluth, MN 55802

Moorhead

Wednesday, December 6, 1989
7:00 pm
Moorhead City Hall
Council Chambers
500 Center Avenue
Moorhead, MN 56560

Sauk Centre

Thursday, December 7, 1989

Marshall

Thursday, December 7, 1989

1:00 pm
Sauk Centre City Hall
Main Hall - 2nd Floor
405 Sinclair Lewis Avenue
Sauk Centre, MN 66378

7:30 pm
South West State University
Room LC 217
Marshall, MN 56258

Rochester

Friday, December 8, 1989
1:30 pm
Rochester City Hall
Council Chambers - 2nd Floor
1st Avenue and 3rd Street S.W.
Rochester, MN 55901

Customer Notice

The Commission will order the Company to publish the attached customer notice (Attachment 2) as a display advertisement in at least one general circulation newspaper in each part of its service area.

The notice shall be published twice, once approximately two weeks before the meeting scheduled in a particular area and again approximately two days before the public meeting in a particular area, as newspaper publication schedules allow.

The Commission will also order the Company to submit a list of the newspapers where the customer notice will be published and the date each notice will be published to the Commission within 14 days of this Order.

Proposed Protective Orders Due Within 21 Days

The Commission will issue an Order dealing with the protection of proprietary material in this docket and interested persons may submit proposed proprietary orders within 21 days of the issue date of this Order.

Information Requests

Recognizing the six month statutory time period for this proceeding, the Commission will require that NWB and all interested persons answer any information requests that may be issued by the Commission Staff, the Department of Public Service, or any other interested person within 10 days of receipt of the request. A copy of each information request must be served on all interested persons. Answers to information requests shall be served on the interested person filing the request and on other interested persons upon request, subject to the Protective Order described above.

Comments on the Merits of the Proposed Plan Due Three Months from Company's Filing

The Commission will allow interested persons three months from the date of the Company's filing to file written comments on whether there is any substantial reason to believe that NWB's present rates are inappropriate and whether the Commission should approve the Company' filing.

Preliminary Review

Following the comment period on the merits of the Company's proposed incentive plan, a preliminary review of the Company's plan and those comments will be held. This will be approximately 3 1/2 months from the date the Company filed its plan. At the preliminary review, interested persons and the Commission or its staff will discuss and evaluate the Company's plan and the comments on the appropriateness of the Company's current rates and the merits of the Company's proposal. The Commission will issue an Order soliciting additional comments on any issues it believes need further development and will determine procedures for the expedited hearing.

Comments on Specific Commission Concerns Following Preliminary Review Due Four Months from the Company's Filing

If the Commission solicits additional comments following the preliminary review, they will be due approximately four months from the date of the Company's filing.

Proceeding under Minn. Stat. § 237.61

Approximately, five months from the date the incentive plan is filed, an expedited proceeding under Minn. Stat. § 237.61 will be held. The Commission will then deliberate and issue its findings of fact and conclusions on the appropriateness of the plan.

The Commission believes that this procedure affords all interested persons a meaningful opportunity to participate in this matter and, at the same time, will provide the Commission with the evidence and the analysis it needs to address the appropriateness of NWB's proposed incentive plan.

Ex Parte Communications

Finally, as of the issue date of this Order the Commission will observe its Ex Parte Communications Rule, Minn. Rules, parts 7845.700 to 7845.7600 for this matter.

ORDER

1. The Commission hereby acknowledges receipt of Northwestern Bell Telephone Company's proposed incentive regulation plan.
2. Any person who would like to be deemed an interested person for purposes of Minn. Stat. § 237.61 (1988) or would like to remain on the service list for this matter must so indicate on the attached Declaration of Interest form which must be filed with the Commission within 10 days of this Order. Any person who would like to change his status to become an interested person after this 10 day period must file a Petition to Intervene pursuant to Minn. Rules, part 7830.0600 prior to the filing of comments addressing the merits of the Company's proposed incentive plan.
3. Interested persons shall file comments with the Commission addressing the adequacy of the filing no later than November 13, 1989.
4. Interested persons may submit proposed proprietary orders no later than November 21, 1989.
5. Information requests may be issued by Commission Staff, the Department of Public Service, and

any other interested persons when requesting supplemental information. A copy of each information request must be served on all interested persons. Answers to information requests shall be served on the interested person filing the request within 10 days and on other interested persons upon request, subject to the Commission's Protective Order in this matter.

6. Interested persons may file comments on the appropriateness of the Company's existing rates and the merits of the Company's proposal no later than January 30, 1990.
7. The time and place for the preliminary review of the Company's plan and comments from interested persons in this matter will be determined in a later Order or notice.
8. The Company shall give notice of its proposed incentive plan by having the attached customer notice (Attachment 2) published as a display advertisement in at least one general circulation newspaper in each part of its service area. The notice shall be published twice, once approximately two weeks before the public meeting scheduled for a particular area and again approximately two days before the public meeting scheduled for a particular area, as newspaper publication schedules allow.
9. Within 14 days of this Order, the Company shall file with the Commission a list of the newspapers where the customer notice will be published and the dates each notice will be published.
10. The Commission authorizes the Executive Secretary of the Minnesota Public Utilities Commission to enter Orders on behalf of the Commission varying time requirements for the filing of comments and other documents and determining the conduct of this proceeding before the Commission according to the standards set forth in Minn. Rules, part 7830.4400. Any interested person adversely affected by any Order issued by the Executive Secretary may file a motion to reconsider, vacate or modify the Order within 10 days after its entry or one day prior to the filing deadline or occurrence of an act directed by the Order. Any motion for reconsideration, vacation or modification shall be heard by the Commission.

11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

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